

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his)
capacity as ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA and)
OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT,)
in his capacity as the)
TRUSTEE FOR NATURAL RESOURCES)
FOR THE STATE OF OKLAHOMA,)
Plaintiff,)
vs.) 4:05-CV-00329-TCK-SAJ
TYSON FOODS, INC., et al,)
Defendants.)

VOLUME II OF THE VIDEOTAPED
DEPOSITION OF BERTON FISHER, PhD, produced as a
witness on behalf of the Defendants in the above
styled and numbered cause, taken on the 4th day of
September, 2008, in the City of Tulsa, County of
Tulsa, State of Oklahoma, before me, Lisa A.
Steinmeyer, a Certified Shorthand Reporter, duly
certified under and by virtue of the laws of the
State of Oklahoma.

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918-587-2878

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08:45AM

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1 data, and from reading the deposition testimony of
2 Lance Bart Snyder in particular, Mr. Snyder says it
3 costs too much to carry it very far. So it will be
4 disposed near to where it's generated.

5 Q You agree that poultry litter is good at 01:20PM
6 growing grass?

7 A I agree that poultry litter can grow grass.

8 Q Okay, and the people -- there are people in
9 the Illinois River watershed who desire to utilize
10 poultry litter in order to grow grass; that's why 01:20PM
11 they use it?

12 A Certainly grows grass and certainly
13 individuals permitted to be -- put on their land to
14 grow grass.

15 Q Are you aware of anyone or any circumstance 01:20PM
16 that you're aware of in the Illinois River watershed
17 where a person has land applied poultry litter for
18 the sole reason of getting rid of it?

19 A I think there are two reasons to apply. One
20 is to grow grass and the other is to get rid of it. 01:20PM

21 Q Well, okay. Can you answer the question I
22 asked?

23 A Have I asked anyone to just put it there to
24 get rid of it, no.

25 Q Are you aware that there is a -- are you aware 01:21PM

1 that there is a general practice in the Illinois
2 River watershed of land applying litter for the sole
3 reason of getting rid of it?

4 MR. GARREN: Object to form.

5 A No, but the effect is to get rid of it. 01:21PM

6 Q Isn't it another reason that litter is applied
7 in the Illinois River watershed is that the State of
8 Oklahoma and the State of Arkansas and the USDA
9 Natural Resources Conservation Service have issued
10 nutrient management plans that authorize the litter 01:21PM
11 to be land applied in the Illinois River watershed?

12 MR. GARREN: Object to form.

13 A Well, nutrient management plans don't
14 necessarily allow it to be disposed. I mean,
15 nutrient management plans simply specify the 01:21PM
16 conditions of disposal.

17 Q You agree that there are nutrient management
18 plans or they be called an animal waste management
19 plan as a label that have been issued by the State
20 of Oklahoma that authorizes the land application of 01:22PM
21 poultry litter in the Illinois River watershed?

22 MR. GARREN: Object to form.

23 A Okay. I'm not sure that they're issued by the
24 State of Oklahoma as a state entity. They're
25 generally -- it's my understanding and experience 01:22PM